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August 13, 1992

Donna R. Searcy
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Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS
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Re: In the Matter of Billed Party
Preference for 0+ InterLATA
Calls -CC Docket No. 92-77

Dear Secretary Searcy:

The New York State Department of Public Service (NYDPS) submits these reply comments in the above captioned proceeding.

The NYDPS is on record before the Commission in support of billed party preference.¹ We continue to view billed party preference as the most convenient means for customers to access their preferred interexchange carrier when placing calls from public telephones. Therefore, we support the FCC's investigation of billed party preference as it relates to interstate calls placed from public telephones.

While we support the concept of billed party preference, the comments filed in this proceeding raise several implementation issues which first must be answered before the Commission considers the adoption of rules for billed party preference. The most serious issues are determining the costs to implement billed party preference and how those costs should be recovered. Based upon the estimates presented in the comments, the costs to implement billed party preference from all public telephones may

¹ See Comments in CC Docket No. 90-313, August 31, 1990.

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exceed the \$500 million upper limit cited in the Notice.² Moreover, the comments suggest that even after it is implemented, billed party preference still will generate annual operating expenses of several million dollars.

In addition to the total costs associated with implementing billed party preference, there is the issue of cost recovery. In particular, we oppose the suggestion that costs associated with billed party preference be recovered through an increase in the subscriber line charge.³ Instead, we believe that the costs of interstate billed party preference should be assigned to the operator service providers that receive 0+ and 0- calls from public telephones.⁴

Lastly, we are concerned that the Commission's Notice of Proposed Rulemaking in fact does not propose any specific rules for billed party preference. While we support soliciting comments on the costs of implementing billed party preference, we believe that before final rules are adopted, parties also should have an opportunity to comment on proposed rules. Therefore, we recommend that the Commission issue a Further Notice of Proposed Rulemaking in which parties may comment on specific rule proposals for billed party preference.

Issuing a Further Notice of Proposed Rulemaking should not delay the implementation of billed party preference since nationwide deployment is still several years away,⁵ pending the completion of certain network upgrades (e.g., universal deployment of SS7, expansion of the Line Identification Data Base (LIDB) capacity to handle 0+ and 0- calls). Thus, the Commission has sufficient opportunity to fully examine and resolve the implementation issues raised by billed party preference prior to the adoption of final rules. In the meantime, recent statutory

² See e.g., Comments of AT&T, p. 11; Bell Atlantic, Attachment A; NYNEX, p. 4; US West, p. 4.

³ See Comments of NYNEX, p. 4.

⁴ Comments of Michigan Public Service Commission Staff, p. 4.

⁵ See e.g., Comments of US West, p. 11 (39-45 months); Southwestern Bell, (33 months) p. 17.

requirements⁶ and federal and state regulations that mandate unblocking of access to operator service providers from public telephones should greatly improve customers' ability to reach their preferred carrier.

If the Commission chooses to move ahead, nonetheless, and adopt final rules for billed party preference, those rules should be limited to interLATA interstate calls. That limitation would be consistent with the scheme required by the Telephone Operator Consumer Services Improvement Act of 1990, which requires the Commission to establish rules to regulate operator services providers but limits the Commission's regulatory authority to interstate calls.⁷ A similar approach is appropriate here. Additionally, the Commission lacks the jurisdiction under the Communications Act to impose billed party preference requirements for interLATA intrastate calls. To the extent a state views the intrastate provision of billed party preference as in the interest of its ratepayers, however, we encourage federal-state cooperation in the implementation of billed party preference.

Respectfully submitted,



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⁶ See 47 U.S.C. Section 226 (1991).

⁷ Pub. L. 101-435, codified at 47 U.S.C. 226.